

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

CANTEEN VENDING COMPANY,
Individually and on behalf of a class of all those
similarly situated,

Plaintiff,

- v -

CADBURY ADAMS CANADA, INC.,
CADBURY SCHWEPPES PLC, CADBURY
ADAMS USA LLC, HERSHEY CANADA
INC., THE HERSHEY COMPANY, MARS
CANADA INC., MARS, INC., MARS NORTH
AMERICA, MARS SNACKFOODS US,
NESTLE CANADA INC., NESTLE S.A.,
and NESTLE USA,

Defendants.

SUMMONS IN A CIVIL ACTION

CASE NUMBER:

08 CV 1205

Judge Berman

TO: (name and address of Defendant)

Nestlé Canada Inc.
25 Sheppard Avenue West
North York M2N 6S8
Ontario, Canada

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address):

Tanya Chutkan
Boies, Schiller & Flexner LLP
5301 Wisconsin Ave. N.W. Suite 800
Washington, DC 20015
(202) 237-2727

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

FEB 06 2008

CLERK

DATE

Marcos Quintero

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (<i>PRINT</i>)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify): </div>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p style="text-align: center;">I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____</p> <div style="display: flex; justify-content: space-between; width: 80%; margin: 0 auto;"> <div style="text-align: center; width: 30%;">Date</div> <div style="text-align: center; width: 30%;">Signature of Server</div> </div> <div style="text-align: center; margin-top: 20px;"> _____ Address of Server </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

U.S. Department of Justice
United States Marshals Service



REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

DEMANDE
AUX FINS DE SIGNIFICATION OU DE NOTIFICATION À L'ÉTRANGER
D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye, le 15 novembre 1965.

Identity and address of the applicant
Identité et adresse du requérant

Tanya Chutkan, Esq.
Boies Schiller & Flexner, LLP
5301 Wisconsin Avenue
Suite 800
Washington DC 20015

Address of receiving authority
Adresse de l'autorité destinataire

Ministry of the Attorney General
Ontario Court of Justice
393 Main Street, P.O. 1208
Haileybury, ON P0J 1K0

The undersigned applicant has the honour to transmit -- in duplicate-- the documents listed below and, in conformity with article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e., (identity and address)

Le requérant soussignée a l'honneur de faire parvenir--en double exemplaire--à l'autorité destinataire les documents ci-dessous énumérés, en la priant, conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, à savoir:

(identité et adresse)

Nestle Canada, Inc.

25 Sheppard Avenue West, North York, M2N 6S8 Ontario, Canada

☐ (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention.*
a) selon les formes légales (article 5 alinéa premier, lettre a).

☒ (b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of article 5)*:
b) selon la forme particulière suivante (article 5, alinéa premier, lettre b) :

personal service by your internal law for service of documents upon persons or entities
in your territory.

☐ (c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5)*:
c) le cas échéant, par remise simple (article 5, alinéa 2).

The authority is requested to return or to have returned to the applicant a copy of the documents and of the annexes with a certificate as provided on the reverse side.

Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte - et de ses annexes - avec l'attestation figurant au verso.

List of documents
Énumération des pièces

1.Request (executed) with attachments
2.Certificate (unexecuted) 3.Summary w/att's
4.Notice 5.Summons 6.Complaint 7.Reassignment l
8. Berman Memo 9.Elec Filing Instr's 10.Judge's
Rules 11. Magistrate Rules - all in duplicate

Done at Washington, D.C., U.S.A., the Feb. 2008 23
Fait à _____, le _____

Signature and/or stamp
Signature et/ou cachet

Tanya Chutkan

*Delete if inappropriate
Rayer les mentions inutiles.

CERTIFICATE ATTESTATION

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention,
L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,

1) that the document has been served *

1) que la demande a été exécutée

-- the (date) -- le (date)

-- at (place, street, number) - à (localité, rue, numéro)

9th day of April, 2008.
25 Sheppard Avenue West, Suite #2200, City of Toronto.
-- in one of the following methods authorized by article 5: Province of Ontario.
-- dans une des formes suivantes prévues à l'article 5:

☐ (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention*.
a) selon les formes légales (article 5. alinéa premier, lettre a)

☐ (b) in accordance with the following particular method:
b) selon la forme particulière suivante:

☒ (c) by delivery to the addressee, who accepted it voluntarily.*
c) par remise simple.

The documents referred to in the request have been delivered to:
Les documents mentionnés dans la demande ont été remis à:

- (identity and description of person)
- (identité et qualité de la personne)

- relationship to the addressee family, business or other

- liens de parenté de subordination ou autres avec le destinataire de l'acte:

Terrence J. Ellwood.
Senior Vice President - General Counsel & Secretary

2) that the document has not been served, by reason of the following facts*:

2) que la demande n'a pas été exécutée, en raison des faits suivants:

In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*

Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint.

ANNEXES

Annexes

Documents returned:

Pieces renvoyées

In appropriate cases, documents establishing the service:

Le cas échéant, les documents justificatifs de l'exécution:

As per request for service - attached.

Done at
Fait à

Toronto, Ont.

, the
le

15th day
of April, 2008.

Signature and/or stamp
Signature et/ou cachet

[Signature] EO #26